THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.25368 of 2006

06-12-2006

Between:-

Nasapu Manmada Rao and another.

Petitioners

And

The Special Deputy Collector Land Acquisition,
A.P. Industrial Infrastructure Corporation Limited,
Industrial Estate, Visakhapatnam and two others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 25368 of 2006

Oral order:

The writ petition is filed for the grievance that the respondents and their officers are seeking to dispossess the petitioners from their property in an extent of Ac.600 square yards in survey Nos. 206/1 and 208/3 situate in Kaniti village of Visakhapatnam, without initiating any proceedings for acquisition of their land under the Land Acquisition Act, 1894 (for short 'the Act') or any other law and without lawful authority. Earlier, on an apprehension that the plot is likely to be acquired, the petitioners submitted a representation to the third respondent on 27-04-2005 beseeching that the State should not acquire their land, since the petitioners have no other property. Nothing was heard thereafter.

Now the petitioners allege that about two days earlier to the filing of writ petition, the officials of the respondents tried to lay the road forcibly. The petitioners with the help of neighbours could thwart such unlawful attempt. Apprehending further unlawful conduct by the respondents or their officials, the writ petition is filed.

Neither the respondents themselves nor any of their officials have

any authority in law to forcibly enter private property and dispossess the citizens even for the benign purpose of laying a road in the public interest. Any such conduct of the respondents, including of the District Collector, will constitute criminal tress pass into private property and such public official would be liable to be prosecuted for an offence cognizable at law. In respect of such unlawful conduct, as is alleged in the writ petition, the petitioners may exercise the right of private defence and use reasonable countervailing force to prevent any attempt by any public officer, including the District Collector, from unlawfully entering and dispossessing a citizen of his property. The petitioners may also complain to the jurisdictional police including against the District Collector, if District Collector has criminally trespassed into property. On such complaint, the police are bound to register the complaint and take necessary steps under law for investigation into the complaint. The police are also required to provide the petitioners the full force of the sovereign authority of the State to prevent criminal trespass. The petitioners also have a remedy of approaching the competent court of civil jurisdiction for injunctive relief and in case of urgency may seek waiver of the notice under Section 80 of the Code of Civil Procedure, 1908.

In the context of the availability of several remedies mentioned above, this court is not inclined to adjudicate upon the grievance urged, in this writ petition. The writ petition is dismissed with liberty to the petitioner to pursue the available remedies. No costs.

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GODA RAGHURAM, J

Dated:06-12-2006
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